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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,552	11/12/2003	Karl W. Terry	7124.023	6890

30589 7590 07/05/2005

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

EXAMINER

ZIMMER, MARC S

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	10/706,552	TERRY ET AL.	
	Examiner	Art Unit	
	Marc S. Zimmer	1712	

All Participants:

(1) Marc S. Zimmer.

(2) Douglas Sorocco.

Status of Application: non-finally rejected

(3) _____

(4) _____

Date of Interview: 17 May 2005

Time: _____

Type of Interview:

- ☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

Claims discussed:

Prior art documents discussed:

Terry et al., U.S. patent # 6,342,097

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

See Continuation Sheet

Part III.

- ☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.


 (Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant was advised that the Examiner had erred by not making an obviousness-type double patenting rejection of the claimed article in view of the composition claims set forth in U.S. Patent # 6,342,097, which had evolved from parent application 09/553,583. Although they belong to different statutory lines of invention, the litmus test for obviousness-type double patenting is whether or not the claims could reasonable have been separated by restriction. In the Examiner's estimation, they would not have been restrict-able. Insofar as the article comprises a coating layer comprised of precisely the same materials as are essential to the composition claims of the patent, obviousness type double patenting rejections are merited. Applicant was asked to file a terminal disclaimer thereby precluding the Examiner from making this rejection and, hence, to expedite prosecution. Applicant was further advised that the terminal disclaimer should be accompanied by a corrected set of claims as the claims submitted 1/25/05 were directed to a process whereas the original claims were all article claims. In the absence of a corrected set of claims, double patenting of the statutory type is presented between this application and 10/706,551. Applicant was also reminded that the corrected set of claim sheets should include the cancellation of claim 23 as was clearly their intention in the earliwrr response.